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PUBLIC UTILITIES COMMISSION
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04333-0018

DOCKET FILE COPY ORIGINAL

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COMMISSIONERS

January 19, 1999

REC'D

FEB 2 1999

1-26-99

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

FCC MAIL ROOM

Re: CC DOCKET 96-45, FEDERAL-STATE JOINT BOARD ON UNIVERSAL
SERVICE, DA 98-2410

Dear Ms. Salas:

Enclosed are eight copies of the Reply Comments of the Arkansas Public Service Commission, Kansas Corporation Commission, Maine Public Utilities Commission, Montana Public Service Commission, New Hampshire Public Utilities Commission, New Mexico Public Utilities Commission, Vermont Public Service Board and the West Virginia Public Service Commission in the above docket. Page 2 was inadvertently omitted from some copies of the original filing and those that were sent out to the service list in the above docketed case. Please date stamp one copy and return in the enclosed self-addressed stamped envelope.

Sincerely,

Joel Shifman

JS/mlc
Enclosure

cc: International Transcription Service
Sheryl Todd

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CC Docket No. 96-45
and DA 98-2410

I. INTRODUCTION

The Rural States respectfully submit the following reply comments to some initial commentors' recommendations that, in our view, are inconsistent with the Act.

In their initial comments the Maryland Public Service Commission and four other low cost states (“Maryland et al”) suggest that Section 254 of the Act is based on the fundamental premise that local competition would necessitate a system of explicit support to maintain affordable rates. Based on their reading of the Act they conclude that because there is currently limited local competition additional high cost funding is not necessary. The Public Utilities Commission of Ohio (“Ohio”) also states that “[u]ntil such time as significant competition in the local market develops any expansion at the existing universal service funding level for non-rural

carriers is inappropriate.” Those legal interpretations of Section 254 are incorrect. The Comments of Maryland et al, and Ohio incorrectly tie the requirements of Section 254 to the development of local competition.¹

Section 254 of the Act unconditionally requires a sufficient federal universal service fund to produce comparable rates between urban and rural areas. Even if competition should fail to develop in most areas, Section 254 still requires a larger federal universal service fund because the existing high cost fund program is not sufficient and does not produce reasonably comparable rates.

As we stated in our initial comments, the existing support system was not designed, as the Act now requires, to ensure that rates in rural, insular and high costs areas are reasonably comparable to rates in urban areas. The current high cost fund fails to meet the standards of comparability and sufficiency later established by Congress in the 1996 Act. The existing system is insufficient with regard to loop support, switch support and transport support.

III. STUDY AREA AVERAGE COSTS SHOULD BE USED

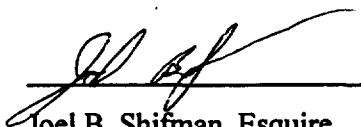
The Iowa Utilities Board (“IUB”) advocates using a geographic area such as a wire center or exchange to measure costs. It asserts that using study area level costs to determine support would lead to insufficient support for truly high cost areas and would give support to areas that are not truly high cost.

We do not agree. First, the use of average study area costs does not mean that “the practice of providing universal service support for all lines within a company’s study area” must continue. (Iowa comments p. 2) Under the Joint Board Recommendation the study area average costs need only be used to determine the amount of support. The use of the study area average costs does not determine how support within a company must be distributed. Under the Joint Board’s recommendation a state would and should be able to direct the support to the high cost area of a study area.

¹ Footnote 11 of the comments of Maryland et al. does not support their proposition that the fund size should not increase. On the contrary the FCC found that “federal and state regulators must ensure that universal service is preserved and advanced as we move from a monopoly to a competitive market.” Second Recommended Decision at para. 1 (emphasis added)

Second, the use of sub study area costs such as wire center, exchange, or CBG costs to determine federal universal service support as the IUB suggests will greatly increase the size of the fund because that method will effectively federalize the existing intrastate implicit subsidies that exist within a study area. The Joint Board correctly observed that federalizing existing intrastate subsidies is not a proper federal purpose.

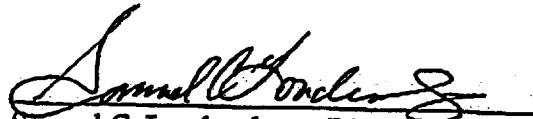
Respectfully submitted on
January 13, 1999

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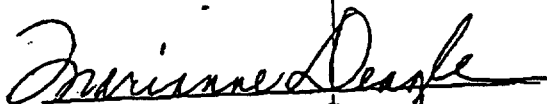
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By:



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Respectfully Submitted,



Glenda Cafer, General Counsel

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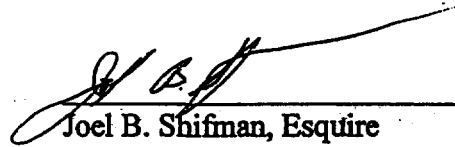
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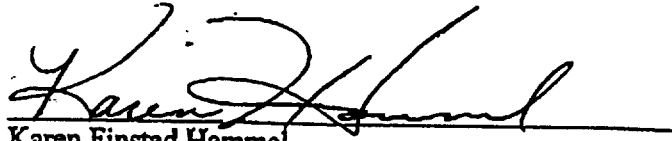
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The Montana Public Service Commission

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Karen Finstad Hammel

Staff Attorney, Montana Public Service Commission

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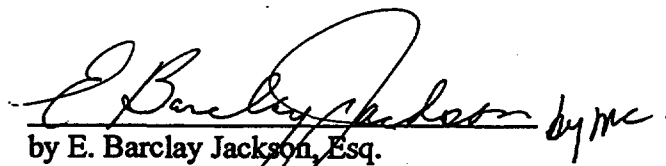
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Respectfully submitted for the
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 by me.

January 13, 1999

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Hearings Examiner

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Kurt Janson, Esq.

General Counsel

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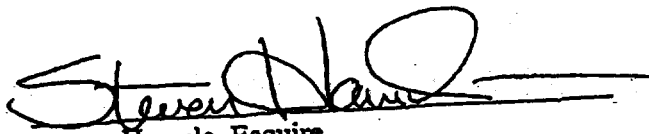
Drawer 20

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PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

By Counsel,

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